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In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-1020

HELEN F. ROESCH,
Petitioner,

vs.

WILLIAM R. ROESCH,
Respondent.

Brief of Respondent Opposing Petition for a Writ of Certiorari to the Court of Appeal of the State of California First Appellate District

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In the Supreme Court of the United States

OCTOBER TERM, 1978

No. 78-1020

HELEN F. ROESCH,
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vs.

WILLIAM R. ROESCH,
Respondent.

Brief of Respondent Opposing Petition for a Writ of Certiorari to the Court of Appeal of the State of California First Appellate District

Respondent William R. Roesch ("Husband") respectfully requests that the petition of Helen F. Roesch ("Wife") for a writ of certiorari to be issued to the California Court of Appeal be denied for the reasons set forth in this brief.

OPINIONS BELOW

The post-trial judgment of the Superior Court of the County of Alameda (Appendix D to Wife's Petition) and the Court's findings of fact and conclusions of law (Appendix E to Wife's Petition) divided the marital property of Husband and Wife equally under California law, pursuant to the trial court's finding that this was quasi-com-

munity property. California Civil Code § 4803.[1] (See Wife's Petition D-4 through D-6.)

Wife appealed the judgment, raising seven contentions, but Wife did not brief any constitutional point. Husband did not appeal, but filed a reply brief which, among other things, objected to the trial court's ruling that Husband's property acquired in Pennsylvania and possessed by him at the time of trial was quasi-community property.[2] Wife elected to file no reply brief.[3]

After hearing oral argument (Husband argued the Constitutional question and Wife did not), the Court of Appeal issued its first opinion on May 28, 1978. (Appendix F to Wife's Petition).

Wife then petitioned the Court of Appeal for rehearing, which petition was granted. (Appendix G to Wife's Petition.) Wife then applied to the Court of Appeal for Leave

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1. Although this statute is set forth in Wife's petition at page 4, it is repeated here for the convenience of the Court.

Civil Code Section 4803:

> "As used in this part, 'quasi-community property' means all real or personal property, wherever situated, heretofore or hereafter acquired in any of the following ways:
>
> (a) By either spouse while domiciled elsewhere which would have been community property if the spouse who acquired the property had been domiciled in this state at the time of its acquisition.
>
> (b) In exchange for real or personal property, wherever situated, which would have been community property if the spouse who acquired the property so exchanged had been domiciled in this state at the time of the acquisition."

2. Sometimes hereafter loosely referred to as the "Federal question" or the "Constitutional question", although state law and factual issues are also involved.

3. The declaration of Lawrence Stotter, dated June 28, 1978, submitted to the California Court of Appeal in Support of Application for Order Granting Leave to File Supplemental Brief stated: "I am the attorney for the appellant [Wife]. When I received the respondent's brief in this matter, I reviewed it and determined that no Appellant's Closing Brief was required." (Appendix A-2.)

to File a Supplemental Brief. (Appendix A hereto.) Wife's application was denied by an unreported order dated July 6, 1978. (Appendix B hereto.)

The District Court of Appeal issued its second opinion on July 24, 1978. (Appendix A to Wife's Petition.)

Wife then Petitioned to the Court of Appeal for a second rehearing which was denied by order dated August 17, 1978. (Appendix B to Wife's Petition.) Wife then Petitioned for hearing to the California Supreme Court which was denied by order dated September 27, 1978. (Appendix C to Wife's Petition.)

On October 23, 1978, the California Court of Appeal remitted the entire action to the Superior Court for the County of Alameda for proceedings consistent with its July 24 opinion. The Remittitur is unreported and is set forth as Appendix C hereto.

QUESTIONS PRESENTED

1. Did the Court of Appeal correctly rule that on the facts of this case the quasi-community doctrine of Civil Code Section 4803 should not be applied to Husband's separate property?

2. Does this case raise any issue of sufficient importance to deserve review by this Court?

STATEMENT OF THE CASE

Husband and Wife were married in Pennsylvania in 1947. (C.T. 1; R.T. 2.) They separated in Pennsylvania in December, 1973. (Husband's Trial Exhibit 1.) During virtually the entire length of this marriage, Hsuband was employed in Pennsylvania by Jones & Laughlin Steel Corporation ("Jones & Laughlin"). (Husband's Trial Exhibit 1.)

During 1973 prior to the parties' separation Husband was informed by Jones & Laughlin that his job might make it necessary for him to move from Pennsylvania. At the same time, Husband was considered for a job possibility at Kaiser Industries Corporation ("Kaiser") whose headquarters were in Oakland, California. (R.T. 4.) Prior to the parties' separation, Wife absolutely refused to discuss with Husband his possible change of residence or change of jobs. (R.T. 4.)

Also prior to the parties' separation, Wife initiated divorce proceedings against Husband in Pennsylvania. In November, 1973, Wife filed two Pennsylvania actions, one entitled "Complaint for Support," and one entitled "Complaint for Anti-Suit Injunction," in which latter case Wife attempted to enjoin Husband from obtaining a divorce in any other jurisdiction. Shortly thereafter, she also filed a third action, a complaint for divorce, against Husband. (Husband's Trial Exhibits 2 and 5.) On December 19, 1973, the Pennsylvania Court entered an Order that Husband pay to Wife the sum of $2,000.00 per month for her support and the support of their minor child, David. Following the entry of the support order, Wife dismissed the divorce and the anti-suit complaints. (R.T. 135-136.)

Husband and Wife separated permanently December 28, 1973 (C.T. 1.), and Husband then moved to Oakland, California and began employment with Kaiser on January 1, 1974, as President and Chief Executive Officer. (Wife's Trial Exhibit H; R.T. 72.)

On July 10, 1974, Husband filed a petition for dissolution in California, thus commencing this lawsuit. Wife appeared and subsequently filed an Order to Show Cause seeking support higher than she was then receiving pursuant to the Pennsylvania order; she also sought attorneys' fees and

costs. (C.T. 17.) On October 24, 1974, the California Superior Court ordered Husband to pay $2,400.00 per month family support *pendente lite* to Wife. (C.T. 8.) Husband regularly made these payments, so that at all times Wife received support at or above the level ordered by the Pennsylvania Court. (R.T. 6.)

Upon trial, Husband argued that his earnings and accumulations were his separate property and not subject to California's quasi-community property doctrine. The trial court, to the contrary, applied the quasi-community property statute and divided the marital property equally between Husband and Wife. (Wife's Petition, Appendices D and E).

Wife did not dispute the values which the court assigned to any of the assets except as to certain insurance policies in question. Further, Wife did not suggest that the trial court divided quasi-community assets unevenly. Wife's objections were only that she had not been awarded each and every asset which she requested at trial, that the insurance policies were not valued as she had requested, and that she had rights in Husband's employment contract with Kaiser.

Even though the Court of Appeal concluded (as Husband's trial and appellate briefs had argued) that application of California's quasi-community property statute was improper, that Court did not modify the trial court's judgment regarding the apportionment of assets because Husband had not appealed on this issue. (Wife's Petition A-12 through A-14.) Thus Wife has received everything which the trial court awarded to her, but was defeated in her attempt to secure more, the purport of the Appellate Courts' ruling being that Wife had received more than she was entitled to from the trial court.

Husband also respectfully points out that Wife's assertion that Husband could not obtain a divorce in Pennsylvania (Wife's Petition, pp. 5 and 11) has absolutely no foundation or support in this case.

REASONS FOR DENYING THE WRIT

I. This Is Not an Appropriate Case for Exercising Supreme Court Jurisdiction.

A. NO SIGNIFICANT FEDERAL QUESTION IS INVOLVED NOR IS THERE ANY CONFLICT IN THE CIRCUITS.

The Court of Appeal found that California's quasi-community property doctrine should not be applied in this case so as to deprive Husband of his earnings and accumulations accruing to him while he was a resident of Pennsylvania. Whether this be viewed as an exercise of comity due to another state, an interpretation of California Civil Code Sections 4800 and 4803, or as a Federal Constitutional limitation on a California legislative act, no major federal question is involved, nor is there any conflict in the Circuits.

The Supreme Court of California thought that there was no sufficient reason for a hearing.

The exercise by the California courts of comity, or an interpretation by them placing a limitation on the circumstances in which the quasi-community property doctrine will be applied surely raise no significant Federal question. Similarly, the *Addison* decision,[4] in which the California Supreme Court recognized federal constitutional restrictions on the extent to which the quasi-community property doctrine can be stretched abridges no federal rights of Wife and no Supreme Court intervention is either necessary or appropriate.

B. WIFE FAILED TO PROPERLY RAISE ANY FEDERAL QUESTION BELOW.

Wife wants to use this case as a vehicle to explore the relationship between no fault dissolution and the quasi-

4. *Addison v. Addison*, 62 Cal.2d 558, 43 Cal. Rptr. 97 (1965).

community property principle. (And Wife desires that the Court's resolution of the relationship be applied to the facts of this case.) However, Wife failed to brief or orally argue this issue in her appeal until the Court of Appeal had ruled against her.

It is the duty of counsel to see that all points are properly presented in the original briefs or arguments. *City of Saratoga v. Huff*, 24 Cal. App. 3d 978, 101 Cal.Rptr. 32 (1972).

It is inequitable to allow Wife to raise new arguments at this late date. In addition, to allow her to do so contravenes the stated policy of the California Courts requiring litigants to present their cases with care and after full preparation. *See Pacific Finance Corp. v. City of Lynwood*, 114 Cal. App. 509, 300 P. 50 (1931).

To grant Wife's Petition in this instance would both contravene California's stated policy requiring care and preparation and also seriously impede judicial economy at all levels.

II. The Federal Question Was Correctly Decided on the Facts of This Case.

The unusual facts of this case must be noted. It is not a case where both parties were domiciled in California at the time of their separation or at the time these proceedings were commenced. Instead, all acts of the parties leading up to their separation occurred while both parties were domiciled in Pennsylvania. Simultaneous with their separation, Husband accepted employment in California and became a California domiciliary. Wife has never been domiciled in California. Wife refused to discuss changing her residence to California. Under such a state of facts, the Court of Appeal correctly ruled that California should not apply its quasi-community property doctrine.

In the instant case, conflicts of law principles and principles of comity require that the court apply Pennsylvania law and confirm the separate property character of the property of Husband. Any other result would not only be in violation of Husband's constitutional rights, but, contrary to Wife's suggestion, would encourage forum shopping of a blatant nature.[5]

A. ADDISON V. ADDISON LIMITS THE APPLICATION OF CALIFORNIA'S QUASI-COMMUNITY PROPERTY STATUTES.

Section 4800 of the California Civil Code authorizes the court in a California dissolution proceeding to divide any quasi-community property between the parties. Quasi-community property is defined in California Civil Code Section 4803.

Only one decided case, *Addison*, deals in depth with Section 4803 which contains the definition of quasi-community property. Although factually a very different case from the instant case, various points considered and decided by the *Addison* court have relevance here. In *Addison*, the California Supreme Court held that California Civil Code Section 140.5 (now Section 4800) was constitutional. In doing so, however, the court relied heavily upon certain facts.

The Addisons, who were married in Illinois in 1939, had accumulated property as a result of the husband's efforts prior to the time they moved together to California in 1949. The Addisons continued married until 1961 when the wife sued for divorce on grounds of adultery. Since both parties were domiciled in California, there were no

5. Wife's argument would allow a spouse to move from a separate property domicile to a community property domicile, sue for divorce and "automatically" convert the other spouse's separate property into quasi-community property.

problems of jurisdiction, forum shopping, property located outside the state, conflicts of law or comity. The *Addison* case did not overrule the vested rights and "privileges and immunities" notions which were the basis of an earlier case, *Estate of Thornton*, 1 Cal.2d 1, 33 P.2d 1 (1934), which ruled that an earlier legislative attempt to classify all personal property, wherever situated, and all California real property, as community property was unconstitutional. Rather, *Addison* distinguished *Thornton* on grounds that the statute considered there attempted to alter property rights merely upon crossing the boundary into California. Lay, *Marital Property Rights of the Non-Native in a Community Property State*, 18 HAST.L.J. 295, 307-308 (1967).

The *Addison* court very carefully prescribed the limitations on the applicability of former Section 140.5. The court states at page 566:

> The legislation under discussion, unlike old section 164, makes no attempt to alter property rights merely upon crossing the boundary into California. It does not purport to disturb vested rights "of a citizen in another state, who chances to transfer his domicile to this state, bringing his property with him . . ." (*Estate of Thornton, supra*, 1 Cal.2d 1, at p. 5). Instead, the concept of quasi-community property is applicable only if a divorce or separate maintenance action is filed here after the parties have become domiciled in California. Thus, the concept is applicable only if, after acquisition of domicile in this state, certain acts or events occur which give rise to an action for divorce or separate maintenance. These acts or events are not necessarily connected with a change of domicile at all.

Thus, the court recognized three conditions as a prerequisite to the constitutional application of the quasi-community property statutes: (1) Both parties must bring

their marriage to California by changing their domicile; (2) The acts or events constituting grounds for dissolution must occur after both parties have acquired California domicile; and (3) The quasi-community property statute cannot be applied just because one party to a marriage has transferred his domicile to California.

1. Domicile of both parties is required to be in California.

In *Addison*, both parties had been domiciled in California for approximately 12 years before the divorce proceeding was commenced. In the *Roesch* case, Husband had been domiciled in California for approximately six months at the time of commencing this action.[6] Wife is not domiciled in California and never has been, by her own choice. The opinion of the *Addison* court merely defines when California's interest in the parties and their property is sufficient to permit application of the quasi-community property statutes without violating the federal constitution. *See, Marital Property and the Conflict of Laws: the Constitutionality of the "Quasi-Community Property" Legislation*, 54 CAL.L.REV. 252, n. 69 at 264 (1966). *Addison* does require that both parties be domiciled in California. 62 Cal.2d at 567. Without such a requirement there would be a violation of due process and equal protection because California's interest in the parties and their property is not sufficiently great. As a practical matter, the contrary result would make the acquisition of domicile, and not the dissolution or the event leading up to dissolution, become the factor precipitating application of the quasi-community property

6. Kaiser was liquidated subsequent to the trial of this action, and as a result, Husband's employment with Kaiser ceased. (See R.T. 113-114, 118.)

statutes, an unconstitutional result totally inconsistent with comity.[7]

2. Grounds for dissolution must occur in California.

Addison overcame due process objections to the legislation by a "balancing of interests," *i.e.*, it held that the police power of the state may be employed to impair vested rights of an individual when necessary to insure the public welfare. However, the court found that interest sufficiently strong only in certain cases, *i.e.*, in cases where the parties were both domiciled in California and where the events giving rise to (grounds for) the divorce action occurred in California. In the absence of these factors, California has an insufficient interest to justify impairing a spouse's vested property interest and ignoring principles of comity. In the absence of these factors, in essence, the change of domicile alone would be the basis for application of the statute. *Addison*, refusing to overrule the *Thornton* case on this point, held that mere change of domicile was an insufficient basis for applying the quasi-community property statute. 62 Cal.2d at 566. In the words of one commentator, "[i]t is hard to visualize the interest of the state being predominant until some act is committed or some event occurs therein which gives rise to the state's interest. Lay, *supra* at 310.

In the *Roesch* case, all of the events giving rise to the dissolution occurred prior to the separation of the parties, and while both parties resided in Pennsylvania. Wife has never been a California domiciliary. Husband's selection of

7. Given California's no fault dissolution of marriage system (created since *Addison*) such a division would be unreasonable and arbitrary. See *Recommendation and Study Relating to Inter Vivos Rights in Property Acquired While Domiciled Elsewhere (1961)*, 3 Cal.Law Rev. Comm'n Rep. I-5, I-32 through I-34.

a California domicile was not collusive nor an act of forum shopping. It was simply incidental to accepting better employment. The parties were separated, and husband was subject to a support order when he came to California. The parties have been separated ever since Husband came to California. Clearly, the dual requirements are not met, namely that (1) the events giving rise to the dissolution occur in California; and (2) that the parties be domiciled in California when those events occur.

3. Chance transfer to California is not sufficient to invoke the quasi-community statutes.

The *Addison* court distinguished *Thornton* on the ground that the statute being applied in *Addison*, unlike *Thornton*, did not alter property rights merely upon crossing the boundary into California. The *Addison* court held that there must be sufficient state interest to justify the application of a state's substantive law to the division of the parties' property. If the marital rupture occurred prior to the acquisition of domicile by the petitioning party, and while the parties were domiciled elsewhere, California's interest in either the parties or their property is indeed a limited one. Under California's no fault system it would take few contacts to justify a California court in dissolving a marriage, but much more to justify disrupting vested property rights.

It is clear that the *Roesch* case involves a "chance transfer" of domicile (as the Court in *Addison* described it). In the face of long standing marital discord, the filing of divorce and support proceedings by Wife, and the entry of a support order against Husband, he found a better job and therefore changed his domicile. However, his change of domicile was entirely unrelated to the marital discord. Expressed negatively, under the *Addison* rationale, application of the quasi-community property statutes would be

unconstitutional if it forced a citizen of Pennsylvania, such as Husband, to refrain from coming to California for valid economic reasons, merely because he were in the process of becoming divorced. Obviously, that is what would occur if as a consequence of changing domicile, he were to be deprived of one-half of his property.

Expressed another way, it would be an unconstitutional application of the quasi-community property statutes if a party who transfers his job to California in the midst of marital discord is forced to accept as a necessary consequence of that transfer a transformation of his separate property into quasi-community property. His only other alternative would be not to sue for dissolution of the marriage (which is contrary to the public policy behind no fault divorce). Such a party having left his former domicile may be legally unable to commence divorce proceedings in his former state of domicile. Therefore, if the community property state threatens to apply its quasi-community statutes, such party must either give up one-half of his separate property or forego his right to petition for dissolution of the marriage. Obviously, it is the change of domicile alone that precipitates the dilemma. On the other hand, where both parties are domiciled in California and the events of marital discord precipitating the dissolution occur subsequent to the change of domicile to California, as required by *Addison*, application of the quasi-community property statutes is likely to have independent and sufficient jurisdictional basis apart from the mere change of domicile. Where both parties are domiciled in California, both parties have lost contact with the prior domicile and the comity issue is greatly reduced. In that situation, California's interest in the welfare of both parties and in treating those parties the same as its other citizens may become

a paramount interest which does not do violence to the interest of the former domiciliary or the vested property rights of the parties. However, that is a much different case than the *Roesch* case, where Wife chose to continue residing in Pennsylvania, the laws of which have always been available for her protection, and whose protection Wife emphatically invoked by filing three actions against Husband in the Pennsylvania courts, including an action for divorce.

B. THE SUPREME COURT HAS NO STAKE IN EXPANDING THE APPLICATION OF THE QUASI-COMMUNITY PROPERTY DOCTRINE BEYOND THE LIMITS WHICH THE STATE COURTS THINK APPROPRIATE.

1. Fourteenth Amendment due process limitation.

As Wife recognizes in her petition to this Court, the state may only exercise its inherent "police power" when reasonably necessary to protect the safety, morals, health and general well being of its citizens. (Petition, pp. 14-15.)

When a state purports to deprive its citizens of vested property rights, and such deprivation is not reasonably necessary for the protection of its citizens, then that deprivation is in violation of the guarantees and protection of the due process clause of the Fourteenth Amendment. *Liggett Co. v. Baldridge*, 278 U.S. 105 (1928).

The test of this due process limitation is a balancing one, *i.e.*, whether the means employed by the state to effect its regulation bear a real, substantive relationship to the public end or public protection. *Treigle v. Acme Homestead Assn.*, 297 U.S. 189, 197 (1936). The court in *Addison* balanced the police powers against individual property rights and found that the application of California's quasi-community property statute was only justified if both parties were California domiciliaries and events occurring

in California gave rise to grounds for dissolution. 62 Cal.2d at 566.[8]

Even though regulation of domestic relations has long been regarded a province of the states [Wife's Petition, p. 15 citing *Sosna v. Iowa*, 419 U.S. 393, 404-410 (1975)], federal constitutional rights still control state laws, and where those state laws offend constitutional guarantees, those laws will be stricken. *Kulko v. Superior Court*, 436 U.S. 84 (1978). Hence the interpretation which Wife urges must be rejected.

2. Fourteenth Amendment privileges and immunities protection.

The privileges and immunities of the citizens of the United States are protected by separate provisions of the Fourteenth Amendment. *Slaughter-House Cases*, 16 Wall. (83 U.S.) 36 (1872).

In addition to his right to due process to preserve his property rights vested under Pennsylvania law, Husband should be able to enjoy the right to travel and to change both his residence and his domicile as parts of the privileges and immunities guaranteed him under the United States Constitution. *Shapiro v. Thompson*, 394 U.S. 618, 629-631 (1969). If Husband is to be stripped of his property rights by a chance change of domicile to California, this will have a chilling effect upon his right to mobility which violates the Fourteenth Amendment protection under the privileges and immunities clause.

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8. That the California Supreme Court should so rule is eminently sensible. California Courts may like the California community property system, but it is not inconsistent for the court to do so and still recognize that the overwhelming majority of the states have a totally different system, and find that the application of the quasi-community property doctrine is viewed by them as outrageous.

3. Article IV, section 2, also protects Husband's privileges and immunities.

The purpose of the Article IV, section 2, Privileges and Immunities clause is to protect the citizens of one state from discrimination by another state. *Paul v. Virginia,* 8 Wall. (75 U.S.) 168, 180 (1868).

In this particular instance the application of the protection to Husband is critical in that Wife argues not only that she is entitled to half the "quasi-community property" of the marriage (which she was awarded by the trial court), but also that Husband should be charged under California law for assets which had been his separate property under Pennsylvania law, and which he had assigned to his daughter while he was a resident and citizen of Pennsylvania. The trial court, as well as the appeal court, rejected Wife's claim to such assets.

To allow anyone, even the state of California, to reach back and set aside transfers of Husband's separate property which were perfectly legal in Pennsylvania would be a flagrant violation of his rights while he was a citizen of Pennsylvania.

The opinion of the California Court of Appeal was absolutely correct in citing the Article IV, section 2, privileges and immunities clause as a basis for its conclusion that Husband was protected from such an application of California's quasi-community property statute. (Wife's Petition, A-13.)

III. Wife Has Sustained No Damage by Reason of the Appellate Court's Ruling on the Federal Question.

The trial court found that there was quasi-community property and gave half of it to Wife. (Wife's Petition D-4 through D-6.) Wife appealed asking for a change in the

way the court assigned particular properties to the parties in making an equal division of property and also asking for additional items to be classified as quasi-community property. Therefore the question of whether the wife should get *more* is a purely factual, local question of state law which has been decided against her at the trial level. Husband did not appeal that court's judgment, and hence the rejection of Wife's petition by this court will not cause her any damage which is federally cognizable. She is damaged, if at all, by the trial court's refusal to agree with all of her factual property points.

CONCLUSION

For the foregoing reasons, Husband respectfully requests that Wife's Petition for a writ of certiorari be denied.

Dated: January 22, 1979

Respectfully submitted,

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(Appendices follows)

Appendix A

FILED—JUN 29 1978
Court of Appeal—First App. Dist.
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IN THE COURT OF APPEAL
OF THE
STATE OF CALIFORNIA
First Appellate District

Division Four

NO. 1 CIVIL 41179

In Re the Marriage of Roesch:
WILLIAM R. ROESCH,
Respondent,

vs.

HELEN F. ROESCH,
Appellant.

DECLARATION AND APPLICATION FOR ORDER GRANTING LEAVE TO FILE SUPPLEMENTAL BRIEF AND ORDER THEREON

The undersigned, LAWRENCE H. STOTTER, says:

I am attorney for the appellant. When I received the respondent's brief in this matter, I reviewed it and determined that no Appellant's Closing Brief was required. On May 23, 1978, this court rendered an opinion in this matter. The opinion appeared to contain an error in constitutional law. I retained appellate specialist, Victoria J. De Goff, attorney at law, to prepare a petition for rehearing in this matter. On June 22, 1978, this court granted appellant's petition for rehearing. The matter is therefore currently pending before this court.

[2]A thorough review of this court's opinion indicated to me and to Ms. De Goff that further briefing on issues other than the constitutional one might be helpful to this court in rendering its opinion in this matter. In part as a result of the court's initial opinion on the constitutional issue, certain other issues were not reached or were decided incorrectly. Indeed, as explained in the Supplemental Brief attached hereto, several issues of significance not only to Mrs. Roesch, but to the law in general in this fast developing area, were not adequately treated. When I was informed that this court did not desire oral argument I retained Ms. De Goff to prepare the attached Appellant's Supplemental Brief which I now seek leave to file. We believe that it will assist this court in the proper disposition of this appeal.

I have proceeded with due diligence in this matter and it is respectfully requested that this court allow appellant to file the attached supplemental brief.

The brief and this application have been served on all parties to the action. If leave to file said brief is granted,

service will forthwith be made upon the Superior Court and the Supreme Court.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at San Francisco, California, on June 28, 1978.

LAW OFFICES OF LAWRENCE H. STOTTER
/s/ By: Lawrence H. Stotter
LAWRENCE H. STOTTER

[3]ORDER GRANTING LEAVE TO FILE SUPPLEMENTAL BRIEF

FOR GOOD CAUSE SHOWN, IT IS ORDERED that appellant is granted leave to file the supplemental brief attached to the Declaration and Application of Lawrence H. Stotter, attorney for Appellant.

DATED: ....., 1978.

.....
PRESIDING JUSTICE OF THE COURT OF APPEAL

Appendix B

COURT OF APPEAL OF THE
STATE OF CALIFORNIA
IN AND FOR THE
First Appellate District

Division Four

FILED—JUL-6 1978
Court of Appeal—First App. Dist.
CLIFFORD C. PORTER, Clerk

By .....
Deputy

In re the Marriage of William R. Roesch and Helen F. Roesch	1 Civil No. 41179
vs.	

BY THE COURT:

Appellant's application for leave to file a supplemental brief is denied.

Dated JUL—6 1978

Rattigan, ACTING P.J.

Appendix C

IN THE
Court of Appeal of the State of California
For the First Appellate District

Division Four

FILED—OCT 24 1978
RENE C. DAVIDSON,
County Clerk
By Pat Clark
DEPUTY

In re Marriage of William R. and Helen F. Roesch
1/Civil 41179
Alameda County $451872-7

REMITTITUR

I, CLIFFORD C. PORTER, Clerk of the Court of Appeal of the State of California, for the First Appellate District, do hereby certify that the attached is a true and correct copy of the original opinion or decision entered in the above-entitled cause on July 24, 1978 and that this opinion or decision has now become final.

Respondent to recover costs.

WITNESS my hand and the seal of the Court affixed at my office this OCT 23 1978

CLIFFORD C. PORTER, Clerk

By Betty Kavunah
Deputy

Receipt of the original remittitur in the above case is hereby acknowledged.

Dated: 10/24/78
NOV 1 1978

RENE C. DAVIDSON
County Clerk
By: Pat Clark
Deputy Clerk